

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 99-0378P**

**Withholding Tax  
Calendar Years 1995, 1996, and 1997**

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**ISSUE(S)**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

**STATEMENT OF FACTS**

Taxpayer was audited for withholding tax, corporate income tax and sales tax in 1999 which generated an assessment for withholding and a refund for income and sales taxes. Taxpayer upon a delinquency notice from the department on August 21, 1997 for the March 1997 withholding tax payment, reiterated with a letter dated August 29, 1997 that \$2,411.04 from an IT-6 payment sent in error should be applied to withholding instead of an extension payment. Likewise, on January 29, 1997, taxpayer requested that \$7,082 remitted on May 10, 1996 with the Indiana Corporate Quarterly Income Tax Return coupon be applied to the employee withholding tax and reduce the amount of estimated income tax payments. Taxpayer made an IT-6 payment in January 1997 in the amount of \$8,526.17. The income tax audit was credited with that amount and the money refunded. Audit assessed the tax for the missing January 1997 payment in the amount of \$8,526.17 plus \$95.55 for nonresident contractors not registered to do business in Indiana and \$804.85 in 1995 for the nonresident contractors.

I. **Tax Administration** – Penalty

### **DISCUSSION**

At issue is whether the taxpayer was negligent in remitting its withholding tax payment.

The withholding tax audit indicated that the taxpayer failed to withhold gross income tax from nonresident contractors not registered to do business in Indiana and it underpaid withholding tax for 1997. Upon audit it was discovered that the taxpayer made a withholding tax payment of \$8,526.17 using the IT-6 quarterly income tax payment coupon and the department posted the payment to the taxpayer's income tax account as prescribed by the form. Taxpayer was given credit in the income tax Field Audit for the payment.

Audit revealed that the taxpayer made other erroneous payments in 1996 and 1997 for withholding tax and sales tax being applied to income tax. Taxpayer wrote letters to the department to ask for a transfer of funds to the correct account. It did not ask for a correction of the \$8,526.17 that was due in January 1997.

Taxpayer received a refund on the income tax audit for the payment applied as requested on the IT-6 form plus interest.

### **FINDING**

Taxpayer's protest is denied.